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BY: V REISINGER

5 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

6 INA AND FOR THE COUNTY OF YAVAPAI

7 STATE OF ARIZONA

8 Plaintiff,

9 vs.

10 STEVEN CARROLL DEMOCKER

11 Defendant.

No. P1300CR201001325

MOTION *IN LIMINE* RE: STATE'S
EXPERT SY RAY

(Oral Argument Requested)

13 COMES NOW THE DEFENDANT, by and through his attorney
14 undersigned, and Moves this Court to enter an Order precluding the State's cell
15 phone expert, Sy Ray, from testifying to his opinion of the Defendant's "reoccurring
16 pattern" of cell phone usage;

17 AS GROUNDS THEREFORE, defendant submits that this type of testimony
18 is not expert testimony, is irrelevant, calls for speculation and unduly prejudicial and
19 should be precluded pursuant to Rules 702, 401 and 403 Arizona Rules of Evidence.
20 During a defense interview, Sy Ray indicated that he reviewed the defendant's cell
21 phone records from June 1, 2008, through July 4, 2008. Based upon a review of
22 that information, Sy Ray opined that Defendant's cell phone activity on July 2, 2008,
23 between the hours of 5:36 p.m. and 10:05 p.m. was irregular and outside the
24 Defendant's normal pattern.

25 During his interview, Sy Ray, stated that he typically likes to review cell
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1 phone records for 90 days. In Mr. DeMocker's case he only reviewed 35 days
2 worth of records. Sy Ray also admitted that different events happen which can
3 cause cell phone usage to change. Sy Ray also admitted that he does not consider a
4 Defendant's statements when making an opinion of reoccurring patterns of cell
5 phone usage. Basically, Sy Ray reviewed 35 days of records and came to the
6 opinion that Mr. DeMocker's cell phone activity for 4 ½ hours on July 2, 2008, was
7 outside his normal pattern. This type of testimony is completely speculative, is not
8 expert testimony as defined in Rule 702, Arizona Rules of Evidence, and should be
9 precluded under Rules 401 and 403, Arizona Rules of Evidence because it is
10 irrelevant and unduly prejudicial.

11 Respectfully submitted this 27 day of February, 2012.

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By  
Gregory T. Parzych

15 Original of the foregoing pleading
16 filed this 27 day
of February, 2012, to:

17 Clerk of Court
18 Yavapai County Superior Court
120 South Cortez St.
Prescott, Arizona 86303

19 Copy of the foregoing pleading
20 mailed this 27 day
of February, 2012, to:

21 The Honorable Gary E. Donahoe
22 The Honorable David L. Mackey
120 S. Cortez
23 Prescott, AZ 86303

24 Jeffrey Paupore, Steve Young,
25 Office of the Yavapai County Attorney
255 E. Gurley Street, Suite 300
26 Prescott, AZ 86301

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1 By _____
2 Gregory T. Parzych

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